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Paper 08242005

OLIFF & BERRIDGE, PLC.  
P.O. BOX 19928  
ALEXANDRIA, VA 22320

AUG 29 2005

In re Application of	:	
Peter M. GULVIN et al.	:	DECISION ON PETITION
Application No. 09/986,107	:	
Filed: November 7, 2001	:	
Attorney Docket No. 109180	:	

This is a decision on the petition under 37 C.F.R. § 1.181, filed August 24, 2004, to withdraw the holding of abandonment of the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to respond to the non-final Office action within the shortened statutory period of three months from the mailing date of January 14, 2004.

Petitioner states that the non-final Office action was never received by applicant's representative and attests to the fact that a search of the file jacket and docket records indicates that the non-final Office action was not received. The petition is accompanied by a copy of the computerized docket record where the non-received Office action would have been entered had it been received and docketed.

A review of the written record indicates that the non-final Office action was returned to the Patent and Trademark Office by the law firm of Burns, Doane, Swecker & Mathis, LLP. Further, a review of the correspondence address of record does not show that the address has been changed to that of Burns, Doane, Swecker & Mathis, LLP. The correspondence address of record continues to be Oliff & Berridge, PLC. Moreover, the record does not show that the returned Office action was remailed.

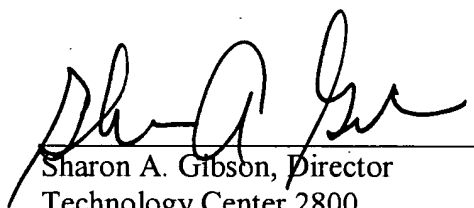
MPEP § 707.13 states the Office policy with regards to returned Office actions. Office actions are sometimes returned to the Office because the United States Postal Service has not been able to deliver them. The examiner should use every reasonable means to ascertain the correct address and forward the action again, after stamping it "remailed" with the date thereof and redirecting it if there is any reason to believe that the action would reach applicant at such new address. If the Office action was addressed to an attorney, a letter may be written to the inventor or assignee

informing him or her of the returned action. The period running against the application begins with the date of remailing. *Ex parte Gourtoff*, 1924 C.D. 153, 329 O.G. 536 (Comm'r Pat. 1924).

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn. The failure of the examiner to ascertain the correct correspondence address and to re-mail the Office action was insufficient to hold the application abandoned.

The application file is being forwarded to the Technology Center 2800 support staff for remailing the Office action. The shorten statutory period for response set therein will be reset to run from the date the Office action is remailed. Extensions of time are available under 37 CFR § 1.136.

Questions regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.



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Sharon A. Gibson, Director  
Technology Center 2800  
Semiconductors, Electrical and Optical  
Systems and Components